

~~TOP SECRET~~

23 October 1968

## MEMORANDUM FOR THE RECORD

Morning Meeting of 23 October 1968

25X1 DD/I advised that he and [ ] will brief Secretary Boyd this afternoon.

Lehman for Godfrey reported that Ambassador Harriman has apparently announced another meeting with the North Vietnamese tomorrow. (Subsequent press reports have Ambassador Harriman denying that there will be a meeting tomorrow.)

D/ONE indicated that DIA has reverted to its original position on the nature of the Tallinn system and that there is therefore a major hang-up in connection with NIE 11-3. The Director asked the DDCI to discuss this matter with General Carroll and to attempt to get DIA back on the track.

Maury advised that he will be seeing Senator Stennis in Washington today or tomorrow in connection with his European trip.

Maury reported that yesterday's briefing of Senator Brewster went well.

Houston advised that we may be on the verge of a minor breakthrough in that we have obtained Department of Justice support for a piece of security legislation.

25X1 [ ]

DD/S&T briefed on his visit with the President's Scientific Advisory Council yesterday.

DD/S&T remarked it is plain that NASA's plan for a manned circumlunar launch in December is a direct product of an earlier intelligence briefing on Soviet space intentions.

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[REDACTED]

Executive Director discussed plans for the Director's participation in the civil phase of HIGH HEELS-68. The Director will visit OEP's protected relocation facility on 24 October.

DDCI briefed on his presentation at the Naval War College yesterday and advised that the President of the College has indicated that he would welcome two additional CIA students in the future.

DDCI drew attention to an item in today's Wall Street Journal on the freedom of information issue.

DDCI referred to a State message from Ambassador Cleveland reporting developments on the Turkish spy case.

The Director drew attention to the cable reporting on Larry Devlin's briefing of Admiral McCain and suggested to the DDCI that he send a personal message to the Admiral.

\*The Director reported that he chatted with Harold Barefoot Sanders yesterday, who informed him that he has the responsibility in the White House for the history of the Middle East crisis. The Director advised Lehman that he gave Mr. Sanders Godfrey's name as a contact who might be helpful in this connection.

The Director advised that General Wheeler will be communicating with General Abrams in an effort to ensure that all concerned reach some consensus on the estimate of North Vietnamese regulars in South Vietnam.

\*The Director advised that he has a paper from [REDACTED] discussing possible approaches to alleviating the Arab-Israeli conflict. He asked the DD/I and Lehman to review the paper and to advise him on what should be done with it.

25X1

[REDACTED]

25X1

L. K. White

\*Extracted and sent to action officer

23 OCT 1968

## Federal Secrecy

### Critics Say Government Frustrates Law Aimed At Freeing Information

Some Agencies Adhere to '67 Act, but Others Charged With Improper Restrictions

### FTC Rebuffs Bristol-Myers

By JERRY LANDAUER

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—When the Federal Trade Commission staff compiled a report of alleged deception in certain automobile warranties, representatives of the auto industry were given copies so they could "comment on factual matters."

But press and public can't see the report, notwithstanding Congress' announced intent to give everybody equal access to such Government documents when it wrote the freedom of information law.

"The freedom of information act doesn't require us to give it out," insists FTC Chairman Paul Rand Dixon. "We'll make it public when we're ready."

Critics say the Dixon outburst hardly jibes with President Johnson's ringing declaration when he signed the law on Independence Day in 1967: "Freedom of information is so vital that only the national security, not the desire of public officials or private citizens, should determine when it must be restricted."

Read literally, the law requires release of Government information except when disclosure might compromise nine exempt categories. Among them are national security, private personnel records, investigatory files compiled for law enforcement purposes and trade secrets or financial data obtained in confidence from industry.

#### "Twisting the Law"?

But secrecy persists. "Some agencies are using the law as a new excuse to hide more facts of Government," contends Samuel J. Archibald, former counsel to the House Government Operations subcommittee that drafted the law. "Other agencies," adds Mr. Archibald, now Washington director of the University of Missouri's Freedom of Information Center, "are twisting the law to fit the secrecy system they have been following for decades."

On demand, to be sure, many agencies are opening more records for public inspection, often under prodding by the House subcommittee. Among recent disclosures:

- Working papers used to document the Surgeon General's report on smoking and health.

- Manuals for adjudicating Social Security claims.

- Investigators' reports on racial bias in Mississippi's welfare program.

—The name of the manufacturer who supplied Walter Reed Army Medical Center with microwave food ovens that leaked radiation (authorities first refused to identify him, lest competitors use the information to promote their own ovens or knock his).

—A handwriting expert's analysis of a decades-old document submitted by a veteran to support claims for a disability pension (the expert wouldn't authenticate the document, and the Veterans Administration denied the claim).

If an agency refuses to make a document available for inspection, citizens can seek a court order compelling disclosure. But so far the courts have tended to uphold FTC Chairman Dixon's narrow view of the freedom-of-information law's effect. In a key case in Federal

district court here, Bristol-Myers Co. sought copies of "extensive staff investigations" plus "available studies and reports" on which the FTC had said it would rely for adopting rules

governing advertising of pain remedies (Bristol-Myers makes Excedrin, Bufferin and other remedies). In identifying the records it wanted, Bristol-Myers used the same language as the FTC used to describe the material. Yet Judge

Alexander Holtzoff said the description wasn't sufficient; documents sought from the Government must be so clearly identified that any clerk can find them, he ruled.

#### Adding Restricted Categories

Fortified by such judicial decisions, say some observers, the Executive branch can remain rooted to the time-honored rule: "When in doubt, don't give it out."

Thus, the Bureau of Indian Affairs holds in trust \$229 million derived from mineral leases, timber-cutting rights and other concessions of Indian lands, but it won't specify which tribes possess how much of the money. Information the Department of Transportation obtains from the public is made available only "to the extent that the person furnishing the information would customarily release it." In the Federal Register, the regularly issued list of Government announcements, the Agriculture Department needed 98 columns of type to specify what it will disclose and withhold; in the process, the department has added "dozens of restrictions on access to information beyond the nine categories spelled out by law," says Mr. Archibald, the freedom of information authority.

Washington's tendency toward secrecy appears to increase in direct proportion to the subject's sensitivity. Examples:

—On April 2, 1965, President Johnson formally assured California Democrat John Moss, chairman of the House Government Operations subcommittee, that only the chief executive would invoke "Executive privilege" to withhold information sought by Congress. Yet last month, in refusing to answer Senator's questions about Justice Abe Fortas' alleged participation in Executive branch decision-making, Treasury Undersecretary Joseph Barr gave as his reason the fact that he himself had discussed with the President the matter in question: Secret Service protection for Presidential candidates.

"Based on long-standing precedents, it would be improper for me under these circumstances to give testimony," Mr. Barr wrote, thus sparing LBJ from having to invoke the doctrine himself—and from seeming to protect friend Fortas. According to Mr. Archibald, Un-

dersecretary Barr's refusal to testify was the first departure from President Johnson's 1963 assurance.

—The Pentagon keeps a secret list of contractors barred from bidding for defense work. Most of them have been convicted of fraud in connection with defense contracting, and the convictions appear on public documents in courts across the land. Yet the Defense Department refuses to give out its compilation of these public records, assertedly because the blacklist also includes companies which haven't been convicted of any crime but that, in the Pentagon's judgment, willfully failed to perform a contract. Keeping separate lists would be "burdensome," the Pentagon maintains.

—Of all Government functions, collecting taxes is among the most sensitive—and most secretive. By law, tax returns can't be disclosed unless the President himself so directs. But some Washington sources claim the Internal Revenue Service goes beyond sanctioned secrecy to prevent press and Congress from knowing about decisions often involving millions of dollars.

Last year delinquent taxpayers owed the Government a total of \$1.4 billion. Often the IRS places liens against the delinquents, and these liens are a matter of public record. But the IRS won't deploy its massive know-how in data-processing to compile a list of individuals or corporations who owe, say, \$50,000 or more. If you want the information, the IRS advises, go to various offices designated by each of the 50 states for filing the liens.

Another \$347 million in tax debts was written off last year as "uncollectible." But the IRS won't identify the defaulting taxpayers, though in 1966 Republican Sen. John Williams of Delaware found that the uncollectible money included \$23 million owned by corporations controlled by Greek shipping magnate Stavros Niarchos. The IRS gives two reasons for its reticence:

First, uncollectible accounts may be reactivated as a tax-debtor's circumstances improve; hence, "any data we might furnish might not reflect the current status of the particular accounts." If this excuse is accepted, critics say, the IRS could duck requests for any figures that might change during the time gap needed to compile them. They also suggest that the agency could overcome its stated objection to disclosure merely by labeling the figures as accurate only as of a certain date.

The agency says its other reason for keeping mum is that "placing an account in an uncollectible status is an administrative action of- fered based on confidential information furnished to us for tax administration purposes only." In other words, the IRS reasons, basing a decision on confidential information justifies keeping the decision itself a secret.